

4-2801-8319-2

STATE OF MINNESOTA  
OFFICE OF ADMINISTRATIVE HEARINGS  
FOR ST. CLOUD STATE UNIVERSITY

In the Matter of the  
Proposed Suspension of  
Matthew Stankiewicz

FINDINGS\_OF\_FACT,  
CONCLUSIONS\_OF\_LAW  
AND\_RECOMMENDATION

The above-entitled matter came on for hearing before Administrative Law Judge Peter C. Erickson at 10:00 a.m. on Monday, November 1, 1993 in the Lewis and Clark Room, Atwood Center, at St. Cloud State University in St. Cloud, Minnesota. The record in this matter closed at the conclusion of the hearing.

James Patrick Barone, Assistant Attorney General, 1200 NCL Tower, 445 Minnesota Street, St. Paul, Minnesota 55101-2130, appeared on behalf of St. Cloud State University (hereinafter "University"). The Respondent, Matthew Stankiewicz, 718 Portland Avenue, Apartment J, St. Paul, Minnesota 55104, did not appear at the hearing.

Notice is hereby given that, pursuant to Minn. Stat. § 14.61, the final decision of the President of St. Cloud State University shall not be made until this Report has been made available to the parties to the proceeding for at least 10 days, and an opportunity has been afforded to each party adversely affected to file exceptions and present argument to the President of the University. Exceptions to this Report, if any, shall be filed with Robert Bess, President, St. Cloud State University, 720 Fourth Avenue South, St. Cloud, Minnesota 56301-4498.

STATEMENT OF ISSUE

The issue to be determined in this proceeding is whether grounds exist to suspend Matthew Stankiewicz from St. Cloud State University for two academic quarters.

Based upon all of the proceedings herein, the Administrative Law Judge makes the following:

FINDINGS OF FACT

1. Matthew Stankiewicz filed a Notice of Appearance on October 19, 1993, indicating his receipt of the Notice of and Order for Hearing and his intent to appear at the hearing. At approximately 8:55 a.m. on November 1, 1993, Mr.

Stankiewicz telephoned Dr. Lee Bird, Assistant Vice President of Student Life and Development, to inform her that he had missed his bus and would not be at the hearing. He did not indicate to Dr. Bird that he would arrive late or that he wanted a continuance. At the commencement of the hearing, all of St. Cloud's witnesses were assembled and the University was prepared to go forward with its case. Mr. Stankiewicz did not attempt to contact the Judge at the time of the hearing or subsequent to the hearing.

2. The allegations set forth in the Notice of and Order for Hearing read as follows and are adopted by reference as facts herein:

1. Matthew Stankiewicz was enrolled as a student at St. Cloud State University in February 1993.
2. On February 20, 1993, Stankiewicz attended a party at a fraternity (TKE) house.
3. Stankiewicz began to pull on the belt loop on the clothing of Susan Welton, a St. Cloud State University student.
4. Stankiewicz was told to stop the behavior by Welton and by a member of the fraternity.
5. Stankiewicz continued to pull on the belt loop until he ripped it loose from the clothing.
6. Approximately one-half hour later, Stankiewicz asked Welton to go home with him and she replied that she would not.
7. Stankiewicz then called Welton a "bitch" and he proceeded to throw beer in her face.
8. Stankiewicz then pushed Welton against the wall with both of his arms at which point Welton hit the wall with her back and fell to the floor.
9. Stankiewicz kicked
10. Stankiewicz pulled Welton to her feet and hit her on the left cheek.
11. The blow to the cheek caused a one-inch gash along the cheek bone which proceeded to bleed and Welton blacked out.
12. When Welton regained consciousness Stankiewicz was no longer in the room.
13. Jeff Peterson, a St. Cloud State University student, although unaware of the incident which had just occurred

with Welton, asked Stankiewicz to leave the party because it was late and everyone else was gone.

14. Stankiewicz reacted to the request by punching a five-inch hole in the plywood paneling and dry wall of the wall next to Peterson.

15. Stankiewicz grabbed Peterson by the shirt and pushed him into the furnace door.

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16. Stankiewicz said to Peterson: "I'm going to kill you."

17. On April 30, 1993, Stankiewicz was arrested for firing eight shots from a 22 caliber rifle.

18. The shots were fired into a wall and through a screen door.

19. A St. Cloud State University Judicial Board held a hearing regarding Stankiewicz pursuant to St. Cloud State University Judicial Policies. The Judicial Board issued a decision that Stankiewicz had violated the St. Cloud State University Code of Conduct and suspended Stankiewicz from St. Cloud State University for two quarters and until such time as he could provide some evidence of successful completion of an alcohol counseling or rehabilitation program and, placement on probation for one academic year following his return to St. Cloud State University.

20. Stankiewicz appealed this decision to David Sprague, Vice President for Student Life and Development.

21. Sprague affirmed the decision and upheld the sanction determined by the Judicial Board with the exception of removing the requirement for evidence of successful completion of an alcohol counseling or rehabilitation program.

22. Stankiewicz requested this hearing pursuant to St. Cloud State University Judicial Policies which provide for an appeal on the following grounds:

1. Evidence presented at the hearing does not support the verdict.
2. The sanction is excessively severe.
3. New or newly discovered evidence is of a character which may substantially affect the outcome of the hearing.

4. There was a procedural error which substantially affected the outcome of the hearing.

3. The Notice of and Order for Hearing issued by the University stated in bold capital letters that, "SHOULD A PARTY FAIL TO APPEAR AT THE HEARING, THE ALLEGATIONS MADE IN THIS ORDER MAY BE TAKEN AS TRUE." The Order further stated that, "If the allegations in this Order are taken as true, Matthew Stankiewicz will be suspended from St. Cloud State University for two quarters and he will be on probation for a period of one academic year after he returns to St. Cloud State University."

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4. Based on the testimony presented at the hearing, the Judge makes the following additional factual determinations:

a. The shooting which was referenced in paragraph 17 of the allegations occurred at a fraternity house where Mr. Stankiewicz was a member. That fraternity, Alpha Delta Gamma, had expelled Mr. Stankiewicz and an altercation arose when Mr. Stankiewicz was moving his belongings out of the fraternity house. Alpha Delta Gamma is located at 511 Eighth

b. The assault which occurred on February 20, 1993 referenced in paragraph 2 of the allegations above occurred at Tau Kappa Epsilon Fraternity located at 611 Fifth Avenue South in St. Cloud. This fraternity is right across the street from the University but is not on the University premises. Tau Kappa Epsilon Fraternity is an organization which is affiliated with the University and given recognition by it as a student organization.

c. Subsequent to the February 20, 1993 assault at Tau Kappa Epsilon, a fraternity member, Jefferson Knowles, conducted an investigation of the incident. Mr. Stankiewicz was aware of this involvement by Mr. Knowles. Mr. Knowles had the position of the Director of Risk Management at Tau Kappa Epsilon. During and subsequent to Mr. Knowles' investigation, Mr. Stankiewicz telephoned Mr. Knowles on at least four occasions and threatened him (Mr. Knowles) with physical violence. Additionally, while at a party sponsored by a sorority on campus, Mr. Stankiewicz approached Mr. Knowles and again threatened him with harm. Mr. Stankiewicz has called University officials to tell them that Mr. Knowles and his fraternity, Tau Kappa Epsilon, deal drugs at the University. There is no evidence that this accusation is true.

Based upon the foregoing Findings of Fact, the Administrative Law Judge

makes the following:

#### CONCLUSIONS

1. The Administrative Law Judge and the President of St. Cloud State University have jurisdiction in this matter pursuant to Minn. Stat. § 14.50 and the appeals procedure set forth in the University Code of Conduct. The Notice of and Order for Hearing issued by the University was proper in all respects and the University has complied with all procedural and substantive requirements of statute and rule.

2. Matthew Stankiewicz did not appear at the hearing and was in default.

Pursuant to Minn. Rule 1400.6000, the allegations set out in the Notice of and Order for Hearing may be deemed proved without further evidence if a party is in default. Because the disciplinary procedures contained in

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the St. Cloud State University Code of Conduct specifically provide that a student is entitled to a "Chapter 14-Contested Case Hearing", the provisions of Chapter 14 and the Rules of the Office of Administrative Hearings apply.

3. The Code of Conduct at St. Cloud State University provides that disciplinary action may result from various offenses, including:

1. "Intentionally, recklessly or negligently causing physical harm to any person on University premises or at University sponsored activities. This includes engaging in any form of fighting".

2. "Intentionally, recklessly or negligently placing any person under mental duress or causing any person to be in fear of physical danger through verbal abuse, harassment (including repeated phone calls), sexual harassment, hazing, intimidation, threats or other conduct which threatens or endangers that person's emotional, mental or physical well-being."

4. The Judge concludes that Matthew Stankiewicz violated both grounds for discipline set forth above as the result of his actions contained in the Findings herein.

Based upon the foregoing Conclusions, the Administrative Law Judge makes the following:

#### RECOMMENDATION

IT IS RESPECTFULLY RECOMMENDED that the President of St. Cloud State University take appropriate disciplinary action against Matthew Stankiewicz.

Dated this 2nd day of November, 1992.

s/Peter\_C.\_Erick  
PETER C. ERICKSON  
Administrative Law Judge

NOTICE

Pursuant to Minn. Stat. § 14.62, subd. 1, St. Cloud State University is requested to serve its final decision upon each party and the Administrative Law Judge by first class mail.

Reported: Taped; No Transcript Prepared.

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MEMORANDUM

Matthew Stankiewicz did not contact the Judge to inform him of his reason for not appearing at the hearing on this matter or to request a continuance. Consequently, the Judge has concluded that Mr. Stankiewicz is in default and adopted the allegations contained in the Notice of and Order for Hearing as Findings of Fact herein.

The Judge points out that although the conduct of Mr. Stankiewicz set forth in the Findings above is clearly within the meaning of the Code of Conduct provisions cited above, the conduct complained of did not occur on University premises or at activities "sponsored by the University". However, the conduct did occur on the premises of University-recognized organizations and adversely impacted students of the University. Consequently, the Judge has concluded that the Code of Conduct applies to the actions of Mr. Stankiewicz. It may be appropriate for the President of the University to review this matter again due to the continuing threats by Mr. Stankiewicz and require some resolution of these conflicts before Mr. Stankiewicz is allowed to return to campus.

P.C.E.

